Supreme Court, U.S.
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No. 02-813

IN THE

Supreme Court of the United States

GREEN FIRE & MARINE INSURANCE CO., LTD.,

Petitioner,

v.

M/V HYUNDAI LIBERTY, *in rem*,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SUPPLEMENTAL BRIEF FOR RESPONDENT

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RESPONDENT'S SUPPLEMENTAL BRIEF

Respondent M/V HYUNDAI LIBERTY, in response to the Brief for the United States as Amicus Curiae, respectfully requests that the instant petition not be held pending this Court's disposition of the pending petition for a writ of certiorari in *Norfolk Southern Railway v. James N. Kirby, Pty Ltd.*, No. 02-1028 (filed Jan. 6, 2003). Respondent requests that this Court deny the petition for writ of certiorari filed by Green Fire & Marine Insurance Co., Ltd. at this time.

DISCUSSION

The United States suggested in its brief amicus curiae in *Norfolk Southern* (U.S. Br. at 16-20, No. 02-1028) that the Court resolve that case on grounds other than the agency issue which is the subject of the petition in this case. The United States further suggested in its brief amicus curiae in this case (U.S. Br. at 10-13) that this is an "imperfect vehicle" for the Court's possible review of the agency question. This case, as noted by the United States (U.S. Br. at 12), includes case-specific factors which were not briefed in the court of appeals and may not explicitly present the question on which the courts of appeals disagree. The Court would be placed in the position of having to review the evidence presented in the district court and review the facts, in order to dispose of the agency issue, which may not be possible given the underlying history of this case, as set forth in the United States' brief (U.S. Br. at 2-8).

CONCLUSION

Respondent respectfully urges this Court to deny the Petition for Writ of Certiorari.

Respectfully submitted,

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